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FEB 20 2008

In re Application of :
Hoffman :
Application No. 10/604,589 : DECISION GRANTING PETITION
Patent No.: 7,167,539 B1 :
Filed: August 1, 2003 :
Attorney Docket GEMS8081.1777 :

This decision is in response to applicants' "Petition for Patent Term Adjustment reconsideration Under 37 CFR 1.705(d)" timely¹ filed Feb. 23, 2007 requesting that the Office adjust the Patent Term Adjustment from a determination at the time of the issuance of the patent from 702 to 745 days.

The applicants' request for an adjustment is **GRANTED**. The Office will *sua sponte* issue a certificate of correction making the adjustment change from seven hundred and two (702) days to (745) days. The Office will also change the PAIR determination to be consistent with this decision.

The patentees contest the reduction of patent term of sixty-four (64) days after the mailing of the notice of allowance for the submission of a 312 amendment. Patentees argue that the 312 amendment was for drawings and that the Office replied to such notice on December 11, 2006. Accordingly, patentees believe that the reduction pursuant to 37 CFR 1.704(c)(10) should be limited to 21 days not 64 days.

Patentees' arguments are persuasive. Patentees reduction should be limited to 21 days. The reduction began on November 21, 2006 the day of submission of the "312" amendment (i.e. drawing replacement) and ended on the date of reply to the amendment which was December 11, 2006. However, the Office assessed the reduction from November 21, 2006 until January 23, 2007, the date of issuance of the patent. Accordingly, the 64-day reduction after the mail date of the notice of allowance is in error. Overall, the correct amount of PTA at the time of the mailing of the issuance of the patent is 745 days.

Applicants have submitted the \$200.00 fee. No additional fees are required to determined the application for patent term adjustment.

After the mailing of this decision, the Office will forward this application to the Certificate of Correction branch for a prompt issuance of the certificate of correction.

Any questions concerning this decision should be directed to Kery A. Fries, Office of Patent

¹Patent issued on January 23, 2007.

Legal Administration, Office of Deputy Commission of Patent Examination Policy, at 571-272-7757.

Kery Fries
Kery Fries
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction


PALM INTRANET

 Day : Saturday
 Date: 2/2/2008
 Time: 13:37:19

PTA Calculations for Application: 10/604589

Application Filing Date:	08/01/2003	PTO Delay (PTO):	766
Issue Date of Patent:	01/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	64
Post-Issue Petitions:	0	Total PTA (days):	745
PTO Delay Adjustment:	43		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	02/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
35.5	01/03/2007	PTA 36 MONTHS			
35	01/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
34	12/21/2006	EXPORT TO FINAL DATA CAPTURE			
33	12/13/2006	DISPATCH TO FDC			
32	12/11/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
31	12/07/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
30	11/10/2006	EXPORT TO INITIAL DATA CAPTURE			
29	11/21/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)	0	32	
28	11/27/2006	FINISHED INITIAL DATA CAPTURE			
27	11/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
26	11/21/2006	WORKFLOW - DRAWINGS FINISHED	64	32	
25	11/21/2006	ISSUE FEE PAYMENT VERIFIED			
24	11/21/2006	ISSUE FEE PAYMENT RECEIVED			
23	11/06/2006	MAIL NOTICE OF ALLOWANCE	766		-1
22	11/06/2006	MAIL FORMAL DRAWINGS REQUIRED			
21	11/06/2006	MAIL EXAMINER'S AMENDMENT			
20	11/01/2006	ISSUE REVISION COMPLETED			
19	11/01/2006	FORMAL DRAWINGS REQUIRED			
18	11/01/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
17	11/01/2006	EXAMINER'S AMENDMENT COMMUNICATION			
16	10/27/2006	NOTICE OF ALLOWABILITY			
15	08/01/2003	INFORMATION DISCLOSURE STATEMENT			

CONSIDERED			
14	10/03/2006	CASE DOCKETED TO EXAMINER IN GAU	
13	10/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE	
12	08/01/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)	
11	08/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED	
10	09/21/2006	TRANSFER INQUIRY TO GAU	
9	09/19/2006	TRANSFER INQUIRY TO GAU	
8	05/01/2006	TRANSFER INQUIRY TO GAU	
7	04/18/2006	APPLICATION DISPATCHED FROM OIPE	
6	04/19/2006	APPLICATION IS NOW COMPLETE	
5	10/21/2003	CASE CLASSIFIED BY OIPE	
4	10/21/2003	CLEARED BY OIPE CSR	
3	08/01/2003	PGPUBS NONPUB REQUEST	
2	08/01/2003	IFW SCAN & PACR AUTO SECURITY REVIEW	
1	08/01/2003	INITIAL EXAM TEAM NN	

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,167,539 B1
DATED : Jan. 23, 2007
INVENTOR(S) : Hoffman

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (702) days

Delete the phrase "by 702 days" and insert – by 745 days--